

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**BARBARA FRANCES DUCEY**  
425 San Antonio Way  
Sacramento, CA 95819

Registered Nurse License No. 566763  
Nurse Anesthetist Certification No. 2631

Respondent

Case No. 2009-35


OAH No. 2009080968

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on April 12, 2010.

IT IS SO ORDERED March 9, 2010.



\_\_\_\_\_  
President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR.  
Attorney General of California  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

BRN Case No. 2009-35

12 **BARBARA FRANCES DUCEY**

OAH No. 2009080968

13 425 San Antonio Way  
Sacramento, CA 95819

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 Registered Nurse License No. 566763  
15 Nurse Anesthetist Certification No. 2631

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the  
21 Board of Registered Nursing (Board). This action was brought by the prior Executive Officer of  
22 the Board, which action is maintained solely in their official capacities and is represented in this  
23 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Jeffrey M.  
24 Phillips, Deputy Attorney General.

25 2. Respondent Barbara Frances Ducey is representing herself in this proceeding and has  
26 chosen not to exercise her right to be represented by counsel.  
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10. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board of Registered Nursing (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

## RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 566763 and Nurse Anesthetist Certification No. 2631 issued to Respondent Barbara Frances Ducey is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

**Severability Clause.** Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

**Criminal Court Orders:** If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license

1 status with the Board, including during any period of suspension.

2 Upon successful completion of probation, Respondent's license shall be fully restored.

3 3. **Report in Person.** Respondent, during the period of probation, shall  
4 appear in person at interviews/meetings as directed by the Board or its designated representatives.

5 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency  
6 or practice as a registered nurse outside of California shall not apply toward a reduction of this  
7 probation time period. Respondent's probation is tolled, if and when she resides outside of  
8 California. Respondent must provide written notice to the Board within 15 days of any change of  
9 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
10 returning to practice in this state.

11 Respondent shall provide a list of all states and territories where she has ever been licensed  
12 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
13 information regarding the status of each license and any changes in such license status during the  
14 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing  
15 license during the term of probation.

16 5. **Submit Written Reports.** Respondent, during the period of probation,  
17 shall submit or cause to be submitted such written reports/declarations and verification of actions  
18 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
19 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
20 Program. Respondent shall immediately execute all release of information forms as may be  
21 required by the Board or its representatives.

22 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
23 state and territory in which she has a registered nurse license.

24 6. **Function as a Registered Nurse.** Respondent, during the period of  
25 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
26 hours per week for 6 consecutive months or as determined by the Board.

27 For purposes of compliance with the section, "engage in the practice of registered nursing"  
28 may include, when approved by the Board, volunteer work as a registered nurse, or work in any

1 non-direct patient care position that requires licensure as a registered nurse.

2 The Board may require that advanced practice nurses engage in advanced practice nursing  
3 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

4 If Respondent has not complied with this condition during the probationary term, and  
5 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
6 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
7 extension of Respondent's probation period up to one year without further hearing in order to  
8 comply with this condition. During the one year extension, all original conditions of probation  
9 shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent shall  
11 obtain prior approval from the Board before commencing or continuing any employment, paid or  
12 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
13 performance evaluations and other employment related reports as a registered nurse upon request  
14 of the Board.

15 Respondent shall provide a copy of this Decision to her employer and immediate  
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
18 (72) hours after she obtains any nursing or other health care related employment. Respondent  
19 shall notify the Board in writing within seventy-two (72) hours after she is terminated or  
20 separated, regardless of cause, from any nursing, or other health care related employment with a  
21 full explanation of the circumstances surrounding the termination or separation.

22 **8. Supervision.** Respondent shall obtain prior approval from the Board  
23 regarding Respondent's level of supervision and/or collaboration before commencing or  
24 continuing any employment as a registered nurse, or education and training that includes patient  
25 care.

26 Respondent shall practice only under the direct supervision of a registered nurse in good  
27 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
28 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are

1 approved.

2 Respondent's level of supervision and/or collaboration may include, but is not limited to the  
3 following:

4 (a) Maximum - The individual providing supervision and/or collaboration is present in  
5 the patient care area or in any other work setting at all times.

6 (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
7 care unit or in any other work setting at least half the hours Respondent works.

8 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
9 person communication with Respondent at least twice during each shift worked.

10 (d) Home Health Care - If Respondent is approved to work in the home health care  
11 setting, the individual providing supervision and/or collaboration shall have person-to-person  
12 communication with Respondent as required by the Board each work day. Respondent shall  
13 maintain telephone or other telecommunication contact with the individual providing supervision  
14 and/or collaboration as required by the Board during each work day. The individual providing  
15 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
16 patients' homes visited by Respondent with or without Respondent present.

17 9. **Employment Limitations.** Respondent shall not work for a nurse's  
18 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
19 traveling nurse, or for an in-house nursing pool.

20 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
21 registered nursing supervision and other protections for home visits have been approved by the  
22 Board. Respondent shall not work in any other registered nursing occupation where home visits  
23 are required.

24 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
25 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
26 and/or unlicensed assistive personnel on a case-by-case basis.

27 Respondent shall not work as a faculty member in an approved school of nursing or as an  
28 instructor in a Board approved continuing education program.



1 Respondent shall work only on a regularly assigned, identified and predetermined  
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
4 request documentation to determine whether there should be restrictions on the hours of work.

5 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
6 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
7 than six months prior to the end of her probationary term.

8 Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
9 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
10 above required course(s). The Board shall return the original documents to Respondent after  
11 photocopying them for its records.

12 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
13 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
14 amount of \$8,505.00. Respondent shall be permitted to pay these costs in a payment plan  
15 approved by the Board, with payments to be completed no later than three months prior to the end  
16 of the probation term.

17 If Respondent has not complied with this condition during the probationary term, and  
18 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
19 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
20 extension of Respondent's probation period up to one year without further hearing in order to  
21 comply with this condition. During the one year extension, all original conditions of probation  
22 will apply.

23 12. **Violation of Probation.** If Respondent violates the conditions of her  
24 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside  
25 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

26 If during the period of probation, an accusation or petition to revoke probation has been  
27 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
28 an accusation or petition to revoke probation against Respondent's license, the probationary

1 period shall automatically be extended and shall not expire until the accusation or petition has  
2 been acted upon by the Board.

3 13. **License Surrender.** During Respondent's term of probation, if she ceases  
4 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
5 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
6 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
7 take any other action deemed appropriate and reasonable under the circumstances, without further  
8 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no  
9 longer be subject to the conditions of probation.

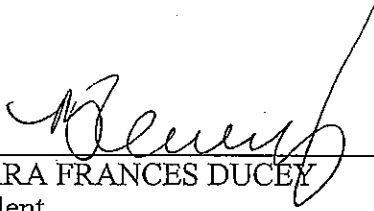
10 Surrender of Respondent's license shall be considered a disciplinary action and shall  
11 become a part of Respondent's license history with the Board. A registered nurse whose license  
12 has been surrendered may petition the Board for reinstatement no sooner than the following  
13 minimum periods from the effective date of the disciplinary decision:

- 14 (1) Two years for reinstatement of a license that was surrendered for any reason other  
15 than a mental or physical illness; or  
16 (2) One year for a license surrendered for a mental or physical illness.

17 ACCEPTANCE

18 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
19 stipulation and the effect it will have on my Registered Nurse License, and Nurse Anesthetist  
20 Certification. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,  
21 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of  
22 Registered Nursing.

23  
24 DATED: 01/14/2010

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BARBARA FRANCES DUCEY  
Respondent

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Dated: 1/14/2010

EDMUND G. BROWN JR.  
Attorney General of California  
ARTHUR D. TAGGART  
Supervising Deputy Attorney General

SA2006103043  
Stipulation.rtf

**Exhibit A**

**Accusation No. 2009-35**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
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7 Attorneys for Complainant

8  
9 BEFORE THE  
10 BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2009-35

13 BARBARA FRANCES DUCEY  
425 San Antonio Way  
14 Sacramento, California 95819

ACCUSATION

15 Registered Nurse License No. 566763  
Nurse Anesthetist Certification No. 2631

16 Respondent.

17  
18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 PARTIES

20 1. Complainant brings this Accusation solely in her official capacity as the  
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
22 Affairs.

23 Registered Nurse License

24 2. On or about May 9, 2000, the Board issued Registered Nurse License  
25 Number 566763 to Barbara Frances Ducey ("Respondent"). The license will expire on  
26 July 31, 2009, unless renewed.

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1                    Nurse Anesthetist Certification

2                    3.        On or about May 10, 2000, the Board issued Nurse Anesthetist  
3 Certification Number 2631 to Respondent. The license will expire on July 31, 2009, unless  
4 renewed.

5                    STATUTORY PROVISIONS

6                    4.        Business and Professions Code ("Code") section 2750 provides, in  
7 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
8 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
9 2750) of the Nursing Practice Act.

10                  5.        Code section 2761 states, in part:

11                  "The board may take disciplinary action against a certified or licensed nurse or  
12 deny an application for a certificate or license for any of the following:

13                  (a) Unprofessional conduct, which includes, but is not limited to, the following:

14                  (1) Incompetence, or gross negligence in carrying out usual certified or licensed  
15 nursing functions."

16                   REGULATORY PROVISIONS

17                  6.        California Code of Regulations, title 16, section 1442, states:

18                  "As used in Section 2761 of the code, 'gross negligence' includes an extreme  
19 departure from the standard of care which, under similar circumstances, would have ordinarily  
20 been exercised by a competent registered nurse. Such an extreme departure means the repeated  
21 failure to provide nursing care as required or failure to provide care or to exercise ordinary  
22 precaution in a single situation which the nurse knew, or should have known, could have  
23 jeopardized the client's health or life."

24                  7.        California Code of Regulations, title 16, section 1443, states:

25                  "As used in Section 2761 of the code, 'incompetence' means the lack of possession  
26 of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed  
27 and exercised by a competent registered nurse as described in Section 1443.5."

28                  ///

1 COST RECOVERY

2 8. Code section 125.3 provides, in pertinent part, that the Board may request  
3 the administrative law judge to direct a licentiate found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case.

6 BACKGROUND INFORMATION

7 9. On or about July 17, 2000, Respondent was an employee of Greenfield  
8 Medical Group. Respondent's duties included providing anesthesia services to a variety of  
9 patients at Hanford Central Valley Hospital. While Respondent was providing anesthesia  
10 services to a 40-year-old pregnant patient who was preparing to give birth by cesarian section at  
11 Central Valley General Hospital, she failed to properly manage the airway of the patient resulting  
12 in aspiration, pneumonia, cardiac arrest, and death.

13 FIRST CAUSE FOR DISCIPLINE

14 (Gross Negligence)

15 10. Respondent is subject to discipline under Code section 2761(a)(1), on the  
16 grounds of unprofessional conduct, in that on or about July 17, 2000, while providing anesthesia  
17 services to a 40-year-old patient at Central Valley General Hospital, Respondent was guilty of  
18 gross negligence in the following respects:

- 19 a. Respondent failed to properly assess the patient's airway.  
20 b. Respondent failed to elicit the proper steps in securing the patient's airway and  
21 following the standard of care in an obstetric patient with failed intubation.  
22 c. Respondent failed to elicit the technique of rapid sequence induction with  
23 cricoid pressure to prevent aspiration pneumonitis in an obstetric patient.  
24 d. Respondent failed to consider the use of pre-medication to prevent aspiration  
25 pneumonitis.

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3 SECOND CAUSE FOR DISCIPLINE

4 (Incompetence)

5 11. Respondent is subject to discipline under Code section 2761(a)(1), on the  
6 grounds of unprofessional conduct in that on or about July 17, 2000, while providing anesthesia  
7 services to a 40-year-old patient at Central Valley General Hospital, Respondent was  
8 incompetent, as more particularly set forth above in paragraph 10.

9 THIRD CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct)

11 12. Respondent is subject to discipline under Code section 2761(a) on the  
12 grounds of unprofessional conduct in that on or about July 17, 2000, while a registered nurse at  
13 Central Valley General Hospital, respondent was guilty of unprofessional conduct, as more  
14 particularly set forth above in paragraph 10.

15 PRAYER

16 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
17 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 566763, issued  
19 to Barbara Frances Ducey;

20 2. Revoking or suspending Nurse Anesthetist Certification  
21 Number 2631, issued to Barbara Frances Ducey;

22 3. Ordering Barbara Frances Ducey to pay the Board of Registered Nursing  
23 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
24 Professions Code section 125.3; and,

25 4. Taking such other and further action as deemed necessary and proper.

26 DATED: 8/13/08

27 Ruth Ann Terry  
28 RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant